

AMENDED IN ASSEMBLY JANUARY 5, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 950

Introduced by Assembly Member Haynes

February 20, 2003

~~An act to amend Section 51554 of the Education Code, relating to An act to amend Sections 51933, 51934, 51938, and 51939 of the Education Code, relating to instruction.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 950, as amended, Haynes. ~~Prohibited instruction: human sexuality~~ *Comprehensive sexual health and HIV/AIDS prevention instruction.*

The existing California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act, authorizes school districts to provide comprehensive sexual health education, as defined, in any kindergarten to grade 12, inclusive, and ensures that all pupils in grades 7 to 12, inclusive, receive HIV/AIDS prevention education, as defined. Existing law enumerates various requirements for comprehensive sexual health education and HIV/AIDS prevention education. Existing law requires a school district to notify the parent or guardian of a pupil about instruction in comprehensive sexual health education and HIV/AIDS prevention and empowers a parent or guardian to excuse his or her pupil from all or part of that instruction.

This bill would prohibit that instruction in comprehensive sexual health education and HIV/AIDS prevention from advocating drug use, a particular sexual practice, or sexual activities. The bill would authorize a school district to require the consent of a pupil's parent or

guardian prior to giving instruction in comprehensive sexual health education and HIV/AIDS prevention. The bill would require, if the instruction in comprehensive sexual health education and HIV/AIDS prevention will be taught by outside consultants, or if that instruction is to be given in an assembly, a school district to notify the parent or guardian of a pupil about that instruction, as specified, no fewer than 10, and no more than 15 days in advance of the instruction.

~~Existing law prohibits a pupil from receiving instruction on sexually transmitted diseases, AIDS, human sexuality, or family life delivered by outside organizations or guest speakers, or instruction in an assembly delivered by a teacher or administrator employed by the school district, unless the pupil's parent or guardian has been notified at the beginning of the school year or, with respect to a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment.~~

~~This bill would, instead, prohibit instruction, as defined, on the subject of human sexuality without the prior written consent of a pupil's parent or guardian, provided for each incidence of instruction.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 51554 of the Education Code is~~
- 2 ~~SECTION 1. Section 51933 of the Education Code is~~
- 3 ~~amended to read:~~
- 4 51933. (a) School districts may provide comprehensive
- 5 sexual health education, consisting of age-appropriate instruction,
- 6 in any kindergarten to grade 12, inclusive, using instructors trained
- 7 in the appropriate courses.
- 8 (b) A school district that elects to offer comprehensive sexual
- 9 health education pursuant to subdivision (a), whether taught by
- 10 school district personnel or outside consultants, shall satisfy all of
- 11 the following criteria:
- 12 (1) Instruction and materials shall be age appropriate.
- 13 (2) All factual information presented shall be medically
- 14 accurate and objective.
- 15 (3) Instruction shall be made available on an equal basis to a
- 16 pupil who is an English learner, consistent with the existing
- 17 curriculum and alternative options for an English learner pupil as
- 18 otherwise provided in this code.

1 (4) Instruction and materials shall be appropriate for use with
2 pupils of all races, genders, sexual orientations, ethnic and cultural
3 backgrounds, and pupils with disabilities.

4 (5) Instruction and materials shall be accessible to pupils with
5 disabilities, including, but not limited to, the provision of a
6 modified curriculum, materials and instruction in alternative
7 formats, and auxiliary aids.

8 (6) Instruction and materials shall encourage a pupil to
9 communicate with his or her parents or guardians about human
10 sexuality.

11 (7) *Instruction and materials may not advocate drug use, a*
12 *particular sexual practice, or sexual activities.*

13 (8) Instruction and materials shall teach respect for marriage
14 and committed relationships.

15 ~~(8)~~

16 (9) Commencing in grade 7, instruction and materials shall
17 teach that abstinence from sexual intercourse is the only certain
18 way to prevent unintended pregnancy, teach that abstinence from
19 sexual activity is the only certain way to prevent sexually
20 transmitted diseases, and provide information about the value of
21 abstinence while also providing medically accurate information
22 on other methods of preventing pregnancy and sexually
23 transmitted diseases.

24 ~~(9)~~

25 (10) Commencing in grade 7, instruction and materials shall
26 provide information about sexually transmitted diseases. This
27 instruction shall include how sexually transmitted diseases are and
28 are not transmitted, the effectiveness and safety of all federal Food
29 and Drug Administration (FDA) approved methods of reducing
30 the risk of contracting sexually transmitted diseases, and
31 information on local resources for testing and medical care for
32 sexually transmitted diseases.

33 ~~(10)~~

34 (11) Commencing in grade 7, instruction and materials shall
35 provide information about the effectiveness and safety of all
36 FDA-approved contraceptive methods in preventing pregnancy,
37 including, but not limited to, emergency contraception.

38 ~~(11)~~

(12) Commencing in grade 7, instruction and materials shall provide pupils with skills for making and implementing responsible decisions about sexuality.

~~(12)~~

(13) Commencing in grade 7, instruction and materials shall provide pupils with information on the law on surrendering physical custody of a minor child 72 hours or younger, pursuant to Section 1255.7 of the Health and Safety Code and Section 271.5 of the Penal Code.

(c) A school district that elects to offer comprehensive sexual health education pursuant to subdivision (a) earlier than grade 7 may provide age appropriate and medically accurate information on any of the general topics contained in paragraphs ~~(8)~~ (9) to ~~(12)~~ (13), inclusive, of subdivision (b).

(d) If a school district elects to offer comprehensive sexual health education pursuant to subdivision (a), whether taught by school district personnel or outside consultants, the school district shall comply with the following:

(1) Instruction and materials may not teach or promote religious doctrine.

(2) Instruction and materials may not reflect or promote bias against any person on the basis of any category protected by Section 220.

SEC. 2. Section 51934 of the Education Code is amended to read:

51934. (a) A school district shall ensure that all pupils in grades 7 to 12, inclusive, receive HIV/AIDS prevention education from instructors trained in the appropriate courses. Each pupil shall receive this instruction at least once in junior high or middle school and at least once in high school.

(b) HIV/AIDS prevention education, whether taught by school district personnel or outside consultants, shall satisfy all of the criteria set forth in paragraphs (1) to ~~(6)~~ (7), inclusive, of subdivision (b) and paragraphs (1) and (2) of subdivision (d) of Section 51933, shall accurately reflect the latest information and recommendations from the United States Surgeon General, the federal Centers for Disease Control and Prevention, and the National Academy of Sciences, and shall include the following:

(1) Information on the nature of HIV/AIDS and its effects on the human body.

(2) Information on the manner in which HIV is and is not transmitted, including information on activities that present the highest risk of HIV infection.

(3) Discussion of methods to reduce the risk of HIV infection. This instruction shall emphasize that sexual abstinence, monogamy, the avoidance of multiple sexual partners, and abstinence from intravenous drug use are the most effective means for HIV/AIDS prevention, but shall also include statistics based upon the latest medical information citing the success and failure rates of condoms and other contraceptives in preventing sexually transmitted HIV infection, as well as information on other methods that may reduce the risk of HIV transmission from intravenous drug use.

(4) Discussion of the public health issues associated with HIV/AIDS.

(5) Information on local resources for HIV testing and medical care.

(6) Development of refusal skills to assist pupils in overcoming peer pressure and using effective decisionmaking skills to avoid high-risk activities.

(7) Discussion about societal views on HIV/AIDS, including stereotypes and myths regarding persons with HIV/AIDS. This instruction shall emphasize compassion for persons living with HIV/AIDS.

SEC. 3. Section 51938 of the Education Code is amended to read:

51938. A parent or guardian of a pupil has the right to excuse their child from all or part of comprehensive sexual health education, HIV/AIDS prevention education, and assessments related to that education, as follows:

(a) At the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment, each school district shall notify the parent or guardian of each pupil about instruction in comprehensive sexual health education and HIV/AIDS prevention education and research on pupil health behaviors and risks planned for the coming year. The notice shall ~~include~~ do all of the following:

(1) Advise the parent or guardian that written and audio visual educational materials used in comprehensive sexual health

1 education and HIV/AIDS prevention education are available for
2 inspection.

3 (2) Advise the parent or guardian whether the comprehensive
4 sexual health education or HIV/AIDS prevention education will
5 be taught by school district personnel or by outside consultants. *If*
6 *comprehensive sexual health education or HIV/AIDS prevention*
7 *education will be taught by outside consultants, or if an assembly*
8 *will be held to deliver comprehensive sexual health education or*
9 *HIV/AIDS prevention education, the notice shall include the date*
10 *of the instruction, the name of the organization or affiliation of*
11 *each guest speaker, and information stating the parent's or*
12 *guardian's right to request a copy of this section, Section 51933,*
13 *and Section 51934. The governing board of each school district,*
14 *each county board of education, and each county superintendent*
15 *of schools, as applicable, shall keep on file copies of this section,*
16 *Section 51933, and Section 51934. If arrangements for this*
17 *instruction are made after the beginning of the school year, notice*
18 *shall be made no fewer than 10, and no more than 15, days before*
19 *the instruction is delivered.*

20 (3) ~~Information~~ Include information explaining the parent's or
21 guardian's right to request a copy of this chapter.

22 (4) Advise the parent or guardian that the parent or guardian
23 may request in writing that his or her child not receive
24 comprehensive sexual health education or HIV/AIDS prevention
25 education.

26 (b) Notwithstanding subdivision (a), a school district may
27 require the consent of a pupil's parent or guardian prior to
28 providing comprehensive sexual health education or HIV/AIDS
29 prevention education.

30 (c) Notwithstanding Section 51513, anonymous, voluntary,
31 and confidential research and evaluation tools to measure pupils'
32 health behaviors and risks, including tests, questionnaires, and
33 surveys containing age appropriate questions about the pupil's
34 attitudes concerning or practices relating to sex may be
35 administered to any pupil in grades 7 to 12, inclusive, if the parent
36 or guardian is notified in writing that this test, questionnaire, or
37 survey is to be administered and the pupil's parent or guardian is
38 given the opportunity to review the test, questionnaire, or survey
39 and to request in writing that his or her child not participate.

1 *SEC. 4. Section 51939 of the Education Code is amended to*
2 *read:*

3 51939. (a) A pupil may not attend any class in
4 comprehensive sexual *health* education or HIV/AIDS prevention
5 education, or participate in any anonymous, voluntary, and
6 confidential test, questionnaire, or survey on pupil health
7 behaviors and risks, if the ~~school has received a written request~~
8 ~~from the pupil's parent or guardian excusing the pupil from~~
9 ~~participation~~ *pupil has been excused from that education pursuant*
10 *to Section 51938.*

11 (b) A pupil may not be subject to disciplinary action, academic
12 penalty, or other sanction if the pupil's parent or guardian declines
13 to permit the pupil to receive comprehensive sexual health
14 education or HIV/AIDS prevention education or to participate in
15 anonymous, voluntary, and confidential tests, questionnaires, or
16 surveys on pupil health behaviors and risks.

17 (c) While comprehensive sexual health education, HIV/AIDS
18 prevention education, or anonymous, voluntary, and confidential
19 test, questionnaire, or survey on pupil health behaviors and risks
20 is being administered, an alternative educational activity shall be
21 made available to pupils whose parents or guardians have
22 requested that they not receive the instruction or participate in the
23 test, questionnaire, or survey.

24 ~~amended to read:~~

25 ~~51554. —(a) Unless a pupil's parent or guardian has been sent~~
26 ~~written notification through regular United States mail, or any~~
27 ~~other method that the school district, county board of education,~~
28 ~~or county superintendent of schools, as applicable, commonly uses~~
29 ~~to communicate individually in writing to all parents or guardians,~~
30 ~~at the beginning of the school year or, with respect to a pupil who~~
31 ~~enrolls in a school after the beginning of the school year, at the time~~
32 ~~of that pupil's enrollment, a pupil may not receive instruction on~~
33 ~~sexually transmitted diseases, AIDS, or family life that is~~
34 ~~delivered by an outside organization or guest speakers brought in~~
35 ~~specifically to provide that instruction, whether the guest speakers~~
36 ~~are brought in to lecture, distribute information, show a videotape,~~
37 ~~act out, conduct an activity involving pupil participation, or~~
38 ~~provide audio material on these subjects. Notification sent~~
39 ~~pursuant to this section shall include the date of the instruction, the~~
40 ~~name of the organization or affiliation of each guest speaker, and~~

~~1 information stating the parent's or guardian's right to request a
2 copy of Sections 51201.5 and 51553, related to AIDS prevention
3 instruction. The governing board of each school district, each
4 county board of education, and each county superintendent of
5 schools, as applicable, shall keep on file copies of this section and
6 Section 51553. If arrangements for this instruction are made after
7 the written notice required by this section is sent, notice of
8 instruction to be delivered by outside organizations or guest
9 speakers shall be mailed, or provided by the alternative method of
10 notification otherwise commonly used, no fewer than 10, and no
11 more than 15, days before the instruction is delivered. For
12 purposes of this subdivision, "instruction" includes instruction
13 delivered in an individual classroom, before combined classes, or
14 in assemblies.~~

~~15 (b) In the case of instruction that involves presentations on
16 sexually transmitted diseases, AIDS, or family life delivered in an
17 assembly, a pupil may not receive that instruction if a teacher
18 employed by the school district or administrator employed by the
19 school district delivers that instruction, unless the pupil's parent or
20 guardian is notified through regular United States mail, or any
21 other method that the school district, county board of education,
22 or county superintendent of schools, as applicable, commonly uses
23 to communicate individually in writing to all parents or guardians,
24 about the instruction at the beginning of the school year or, with
25 respect to a pupil who enrolls in a school after the beginning of the
26 school year, at the time of that pupil's enrollment. If arrangements
27 for this instruction are made after these occurrences, notice shall
28 be provided no fewer than 10, and no more than 15, days before
29 the instruction is delivered. For purposes of this subdivision,
30 "instruction" includes oral presentations, visual presentations,
31 and activities.~~

~~32 (c) (1) No instruction on the subject of human sexuality,
33 including sexual orientation, may be delivered without the prior
34 written consent of a pupil's parent or guardian, being provided for
35 each incidence of instruction.~~

~~36 (2) For purposes of this subdivision, "instruction" includes
37 oral presentations, visual presentations, and activities, whether it
38 is delivered in an individual classroom, before combined classes,
39 or in assemblies, or whether it is delivered by an outside
40 organization, guest speaker, or an employee of the school district.~~

1 ~~(d) A pupil may not be subject to a disciplinary action,~~
2 ~~academic penalty, or other sanction if the pupil's parent or~~
3 ~~guardian declines to permit the pupil to receive the instruction~~
4 ~~described in this section and the pupil does not receive the~~
5 ~~instruction.~~

6 ~~(e) During the period of time instruction described in this~~
7 ~~section is being delivered, an alternative educational activity shall~~
8 ~~be made available to pupils whose parents or guardians have~~
9 ~~requested that they not receive the instruction.~~

